CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

DECISION

Application no. 7448/04
by Rajka TOMAŠEVIĆ
against Croatia

The European Court of Human Rights (First Section), sitting on 20 January 2005 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,
Mr P. LORENZEN,
Mrs N. VAJIĆ,
Mrs S. BOTOUCHAROVA,
Mr A. KOVLER,
Mr K. HAJIYEV,
Mr S.E. JEBENS, *judges*,
and Mr S. NIELSEN, *Section Registrar*,

Having regard to the above application lodged on 11 March 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Rajka Tomašević, is a Croatian national who was born in 1930 and lives in Zagreb. She was represented before the Court by Ms T. Burjačenko Grubiša, a lawyer practising in Zagreb. The respondent Government were represented by their Co-Agent, Mr D. Maričić, and subsequently their Agent, Ms Š. Stažnik.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 20 April 1992 the applicant's weekend house in Orahovica, Croatia, was blown up by unknown perpetrators.

On 16 August 1994 she instituted civil proceedings before the Orahovica Municipal Court (*Općinski sud u Orahovici*) seeking damages from the Republic of Croatia for her damaged property.

On 16 November 1995 the Orahovica Municipal Court rejected her claim. The applicant appealed to the Bjelovar County Court (*Županijski sud u Bjelovaru*).

Pursuant to the Civil Obligations (Amendments) Act 1996 (*Zakon o izmjeni Zakona o obveznim odnosima*, Official Gazette no. 7/1996 of 26 January 1996, hereinafter "the 1996 Act"), the Bjelovar County Court stayed the proceedings on 18 July 1996.

The proceedings resumed on an unknown date pursuant to the "Damage from Terrorist Acts and Public Demonstrations Act 2003" (*Zakon o odgovornosti za štetu nastalu uslijed terorističkih akata i javnih demonstracija*, Official Gazette no. 117/2003 of 23 July 2003).

On an unknown date the Bjelovar County Court referred the case to the competent court, the Virovitica County Court (*Županijski sud u Virovitici*). On 15 January 2004 the latter court quashed the first instance judgment and remitted the case to the Orahovica Municipal Court for a retrial.

On 5 May 2004 the Orahovica Municipal Court dismissed the applicant's claim on the basis of its lack of jurisdiction. The applicant appealed and the case is now apparently pending before the Virovitica County Court.

COMPLAINTS

The applicant complains about the stay on her proceedings pursuant to the 1996 Act. She invokes Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 to the Convention.

THE LAW

On 22 October 2004 and on 26 November 2004 the applicant and the Government, respectively submitted formal declarations accepting a friendly settlement of the case whereby the Government would pay the amount of 4,000 euros to the applicant and she would withdraw the application waiving any further claims against Croatia in that respect.

The Court takes note of the agreement reached between the parties (Article 39 of the Convention) and considers that the matter has been resolved (Article 37 § 1 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention). Accordingly, the application to the case of Article 29 § 3 of the Convention should be discontinued and the case struck out of its list of cases.

For these reasons, the Court unanimously

Decides to discontinue the application of Article 29 § 3 of the Convention;

Decides to strike the application out of its list of cases.

Søren NIELSEN
Registrar

Christos ROZAKIS
President